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October 17, 2014

BY ECF AND HAND

Hon. Dora L. Irizarry, U.S.D.J.  
United States District Court  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Weiss, et al. v. National Westminster Bank Plc, 05-cv-4622 (DLI) (MDG)  
Applebaum, et al. v. National Westminster Bank Plc, 07-cv-916 (DLI) (MDG)

Dear Judge Irizarry:

I am writing on behalf of defendant National Westminster Bank Plc (“NatWest”) to respectfully request that the Court authorize NatWest to file a motion for an order dismissing these lawsuits for lack of personal jurisdiction or, in the alternative, for summary judgment, based on the Supreme Court’s decision earlier this year, during the pendency of Plaintiffs’ appeal from Your Honor’s prior dismissal of these lawsuits, in Daimler AG v. Bauman, 134 S. Ct. 746 (2014), and the Second Circuit’s more recent ruling in Gucci America, Inc., et al. v. Bank of China, et al., 2014 WL 4629049 (2d Cir. 2014). Plaintiffs have authorized me to inform the Court that, while they believe the motion should be denied, they do not object to this request.

NatWest’s proposed motion will be similar to the Daimler-based motion that the Court previously authorized Crédit Lyonnais, S.A. (“CL”) to file in Plaintiffs’ lawsuits against it, and which is currently pending before Your Honor.<sup>1</sup> NatWest will demonstrate that: (1) Daimler eliminates any basis for Plaintiffs’ allegation that NatWest is subject to the Court’s general personal jurisdiction; (2) NatWest had insufficient claim-specific forum contacts to support the assertion of specific personal jurisdiction in these lawsuits; and (3) even if NatWest did have sufficient forum contacts to support specific personal jurisdiction with respect to certain of Plaintiffs’ claims, NatWest is nonetheless entitled to summary judgment because a reasonable

<sup>1</sup> See Strauss, et al. v. Crédit Lyonnais, S.A., 06-cv-702 (DLI) (MDG), ECF Nos. 369, 371 & 372

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jury could not find for Plaintiffs on the indispensable scienter and proximate causation elements of those claims. In particular with respect to scienter, NatWest will demonstrate that the matters that the Second Circuit identified in its recent remand decision as those on which a scienter finding might be based all post-date the last of NatWest's alleged forum contacts, and thus, under Daimler, they are irrelevant to the claims as to which the Court could assert specific jurisdiction.

Plaintiffs have informed us that they will oppose NatWest's motion, but they have agreed to the following schedule for briefing that motion, for which NatWest respectfully requests the Court's approval:

- November 12, 2014 – NatWest will serve its motion papers on all Plaintiffs.
- December 12, 2014 – Plaintiffs will serve on NatWest their opposition to Defendant's motion.
- January 12, 2015 – NatWest will serve its reply papers and will file all parties' motion papers via ECF, in conformity with the Court's "bundle rule," and will provide copies to Chambers.

In addition, and also subject to the Court's approval, NatWest proposes that all other proceedings in these cases be stayed pending the Court's resolution of NatWest's dismissal motion.

The parties infer from the Court's response to CL's prior pre-motion conference letter that a pre-motion conference is unnecessary. See Strauss, ECF Nos. 361-63 & Order re: ECF No. 361 (February 10, 2014). Obviously, the parties will attend such a conference if the Court prefers to convene one.

Respectfully,



Lawrence B. Friedman

cc: All counsel of record